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From:

Sent: Fri 10/10/2008 1:48 PM

To:

Cc:

Subject: RE: Rescinding a Form 2032

Hi

I looked at the materials that you sent. Our position is that the 3121(I) agreement (Form 2032) cannot be terminated. They are sending this employee to work for the UK subsidiary for three years. This is an extended period of time, and our position is that under those circumstances the individual could not possibly remain an employee of the domestic entity under the common law factors that we utilize to determine if an employment relationship exists. If the employee were going over to work for the UK subsidiary for a very short period of time (such as two weeks, for example), then it would be possible for the worker to remain an employee of the domestic entity. The whole purpose of the section 3121(I) statute is to address situations like this, where a domestic entity sends an employee overseas to work for a foreign affiliate for an extended time period. Allowing employers to circumvent the section 3121(I) procedures simply by asserting that the worker remained an employee of the domestic entity would undermine the whole system. I hope this is helpful, and thanks for your patience.